

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CINQUE GRIM,

Plaintiff,

v.

HESTER, *et al.*,

Defendants.

Case No. 3:20-cv-00067-MMD-CLB

ORDER

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a state inmate. On January 11, 2021, the Court issued an order dismissing the complaint with leave to amend and directed Plaintiff Cinque Grim to file an amended complaint within 30 days. (ECF No. 5 at 8.) The 30 period has now expired, and Grim has not filed an amended complaint or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. United States Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey  
2 a court order, or failure to comply with local rules, the court must consider several factors:  
3 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
6 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
7 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors, the public's interest in expeditiously  
9 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
10 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
11 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
12 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air W.*  
13 *Inc.*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
14 disposition of cases on their merits—is greatly outweighed by factors in favor of dismissal  
15 discussed herein. Finally, a court's warning to a party that failure to obey an order will  
16 result in dismissal satisfies the "consideration of alternatives" requirement. *Ferdik*, 963  
17 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The Court's  
18 order requiring Grim to file an amended complaint within 30 days stated: "It is further  
19 ordered that, if Plaintiff fails to file an amended complaint curing the deficiencies outlined  
20 in this order, this action will be dismissed with prejudice for failure to state a claim." (ECF  
21 No. 5 at 9.) Grim thus had adequate warning dismissal would result from noncompliance  
22 with the Court's order to file an amended complaint within 30 days.


23 It is therefore ordered that this action is dismissed with prejudice based on Grim's  
24 failure to file an amended complaint in compliance with the Court's January 11, 2021  
25 order.

26 It is further ordered that the motion to proceed *in forma pauperis* (ECF No. 4) is  
27 denied as moot.

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1 The Clerk of Court is directed to enter judgment accordingly and close this case.

2 DATED THIS 14<sup>th</sup> Day of April 2021.

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6 MIRANDA M. DU  
7 CHIEF UNITED STATES DISTRICT JUDGE  
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